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Bob Myrick

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ALSTON & BIRD LLP

BANK OF AMERICA PLAZA

101 SOUTH TRYON STREET, SUITE 4000

CHARLOTTE, NC 28280-4000

EXAMINER

EVANS, KIMBERLY L

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/696,180	<b>Applicant(s)</b> MYRICK ET AL.	
	<b>Examiner</b> KIMBERLY EVANS	<b>Art Unit</b> 3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

**Response to Amendments**

1. This action is in reply to the response filed August 6, 2010.
2. Claims 1, 7, 9, 16 and 17 have been amended.
3. Claims 4-6 were previously cancelled. Claims 20-86 were previously withdrawn.
4. Claims 1-3, and 7-19 are currently pending and have been examined.
5. The rejections of claims 1-3, and 7-19 have been updated to reflect the amendments.
6. The Examiner has carefully reviewed the Applicant's response and has determined that the rejection stands and is resubmitted below addressing the claims as modified by said amendments.

**Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
  - a. Determining the scope and contents of the prior art.

- b. Ascertaining the differences between the prior art and the claims at issue.
  - c. Resolving the level of ordinary skill in the pertinent art.
  - d. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 1-3, 7-11, and 13-15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogilvie et al., US Patent No. US 6,344,796 B1, in view of Bloom US Patent Application Publication No US 2002/0130065A1.
10. With respect to Claims 1-3, and 18,  
Ogilvie discloses the following limitations,
  - *using a computer system over the Internet to register a customer with an alternate delivery location service provider to receive a product at an alternative delivery location (ADL) other than the customer's home or business address before purchase of the product by the customer, (see at least column 4, lines 29-34: "...This notification can be via fax, e-mail, Internet message, voice, paging device, or other communications means (see, generally, FIG. 2). The central operations controller 20 creates an access code to be used by the local shipper for access to the bins and includes it in the notice to the local shipper..."; Figure 2, column 5, line 66 thru column 6, lines 1-3: "...The consumer must be a registered customer of with the central operations center. The center must have the consumer's personal contact information on file in its database, including how the consumer prefers to be contacted when they have a package. ..."; column 5, lines 31-38: "...Customers may add a permanent storage device identification number to their delivery address to be included when people send them packages, or when customers send outbound packages. When a delivery agent has a package for a tenant of a building with this ganged bin solution, they will go directly to the bank of bins and put all the packages for that tenant into one or more available bins..."; )*

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- *wherein the step of using a computer system to register the customer is performed by the customer accessing the computer system via a website of an ADL service provider via the Internet using a web browser.* (see at least column 6, lines 49-54: "...they will first use the central operations center website to create a package delivery code number and bar code label, which they then attach to the package. Again, the package delivery code will permit the customer to gain access to the secure depot facility, and they may use any available bin...")
- *receiving the product at the ADL for pickup by the customer*(see at least column 5 lines 59-column 6, lines 1-3: "...This invention also addresses the possibility of deploying a bank of storage devices at some convenient location along the routes where consumers drive home. This bank of storage devices serves as a depot to receive shipments from multiple vendors and permit pickup by consumers..."; "...The center must have the consumer's personal contact information on file in its database, including how the consumer prefers to be contacted when they have a package..."), *wherein the product is purchased by the customer and shipped via a carrier.* (see at least column 3, lines 24-28: "...FIG. 4 is flow diagram, illustrating the steps of an embodiment of a method using the apparatus of FIGS. 1 and 2 in which a business or individual orders goods on-line (or by telephone) from a merchant for delivery through the unattended cross-docking apparatus by a delivery agent...").

Ogilvie discloses all of the above limitations, Ogilvie does not distinctly disclose the following limitations, but Bloom however as shown discloses,

- *wherein the customer selects the ADL from a list of ADLs provided by the computer system*
- *wherein the customer selects the ADL most convenient to the customer from the list of ADLs*
- *wherein the customer provides an address of the ADL location as the address for shipping the product in purchasing the product from a vendor* (see at least paragraph 61: "...Upon entering the appropriate search criteria, a customer can receive a listing of the nearby CDC locations 1190-1, for example, through a web page or over the phone. ...")

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- *retrieving the ADL from the web browser enhancement tool for use in shipping the product to the customer upon notification that the customer has purchased the product (see at least paragraph 61: "...Customers who have used the ePD option in the past can be optionally shown (on a web page or be told over the phone) a default destination centralized pickup location (CDC) 1190-1--one that the customer previously provided as a preference or the last CDC 1190-1 they selected if they have not provided a preference..."; paragraph 62: "...The ePD Billing & Maintenance application can be a database and a set of programs to capture and maintain data related to customers, recipients, retailers, CDC's, RDC's, and shippers for use in the shipping operations of all ePD shippers...")*
- *providing the ADL to the vender computer system to use as a shipping location for the product purchased by the customer via the web browser enhancement tool automatically populating form fields of a vendor web page to provide the ADL address for upload to the vendor computer system,*

(see at least paragraph 62: "...Customers who are new to the ePD Delivery Process can be prompted to provide information necessary to set themselves up as new customers in the ePD Billing & Maintenance application via a linked internet web page or over the phone by a person taking their order who can access the ePD customer setup screen on the internet web page. The ePD Billing & Maintenance application can be a database and a set of programs to capture and maintain data related to customers, recipients, retailers, CDC's, RDC's, and shippers for use in the shipping operations of all ePD shippers. ..."; paragraph 65: "...With reference to FIG. 9E and FIG. 10B, customer, recipient, CDC, shipper, and employee information can be maintained centrally on the master copies of a Customer table 1256, a CDC table 1252, a Zip Code-CDC table 1254, a Shipper table 1260, and an Employee table 1308 of the ePD Billing & Maintenance Application. .. Read-only copies of the Customer table 1256, CDC table 1252 and Zip Code-CDC table 1254 can be maintained in the database of each retailer's instance of an ePD Shipping Application by replicating data from the ePD Billing & Maintenance Application's master tables... the programs of each instance can be

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run against the same database instance or a different database instance and can have different pre-defined program values in a referenced file...The ePD Shipping Application can be integrated with each order processing system in such a way as to minimize the amount of change to the retailer's system while providing the necessary data and functionality to enable the shipper to use the ePD Shipping Application to support the ePD Delivery Process...."; paragraph 136: "...Retailers that ship bulk delivered packages directly to CDC's 1190-1 can utilize a Retailer Package Creation Program (315) of the ePD Shipping Application or a modified version of their own order fulfillment software to create Package records 1234 and print packing lists and package labels as they create packages to ship directly to CDC's 1190-1..."

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom because the ePD Billing and Maintenance application provides an efficient way for capturing and maintain data related to customers, recipients, retailers, CDC's RDC's, and shippers for use in the shipping operation of all ePD shippers.

11. With respect to Claim 7,

Ogilvie, and Bloom disclose all of the above limitations, Ogilvie further discloses,

- *the step of using a computer system to register the customer involves the customer providing the computer system identification of at least one retriever authorized by the customer to pick up the product at the ADL ,and the computer system storing the identification information in memory, (see at least Figure 3, column 4 lines 3-11: "...Once the bulk shipper unloads the incoming items into the selected bin or bins, they lock those bins using a pre-assigned transaction code provided to them by the central operations center. This code will usually be associated by the central operations center with all data of the transaction as the bulk shipper*

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had arranged it, including the payload, the identity of the receiving party (the "local shipper"), storage locations, and other pertinent transaction data.

- *verifying at the ADL that the retriever is authorized to receive the product from the identification information stored in the memory*(see at least column 5, lines 41-44: "...The central operations center will notify the customer by his/her preferred communications method and provide them with the bin number and the access code to retrieve their packages...")

12. With respect to Claims 8 and 9,

Ogilvie, and Bloom disclose all of the above limitations, Ogilvie further discloses,

- *notifying the customer that the product is available for pickup at the ADL.* (see at least see at least column 5, lines 41-44: "...The central operations center will notify the customer by his/her preferred communications method and provide them with the bin number and the access code to retrieve their packages...")
- *the step of using a computer system to register the customer involves the customer providing information of a preferred media for receiving notification that the product has arrived at the ADL to the computer system and the computer system storing the information of the preferred notification media in memory,* (see at least column 2, lines 64-67: "...The consignee is then notified by whatever mode of communication (e.g., telephone, fax, or e-mail) that the consignee has registered with the provider of the apparatus. ....": column 2, lines 45-49: "...the service options or accessories are selected, the billing/payment method is selected, and PLD information is routed to the mainframe computer 74 (FIG. 2). For the purpose of this description the term "accessories" generally refers to optionals added to standard shipping including but not limited to declared value, signature requirements, E-mail notification, and special handling instructions...")
- *the preferred notification media comprising at least one of telephone, email, pager, and the notifying is performed using the customer's preferred media.*( see at least column 2, lines 64-



67: "...The consignee is then notified by whatever mode of communication (e.g., telephone, fax, or e-mail) that the consignee has registered with the provider of the apparatus. ....")

13. With respect to Claims 10 and 11,

Ogilvie, and Bloom disclose all of the above limitations, Ogilvie further discloses,

- *wherein an alternate delivery location tracking computer system (ATS) retrieves the information of the preferred indication media from the memory and notifies the customer of arrival of the product at the ADL., via the preferred indication media (see at least column2, lines 45-49: "...The central operations controller may be programmed to communicate the data specific to incoming goods to the consignee electronically via a global communications network, such as by a voice message, by fax or by E-mail. ...")*
- *wherein the ADL staff retrieves the information of the preferred indication media from the memory and notifies the customer that the product is available for pick up at the ADL via the preferred indication media.(see at least column 2, lines 64-67: "...The consignee is then notified by whatever mode of communication (e.g., telephone, fax, or e-mail) that the consignee has registered with the provider of the apparatus. ....")*

14. With respect to Claim 13,

Ogilvie, and Bloom disclose all of the above limitations, Ogilvie further discloses,

- *accessing an alternate delivery location tracking system (ATS) to determine the status of the product in shipment from a vendor of the product to the customer. (see at least paragraph 102: "...it can update the RDC Shipment record 1216 by setting Status to a value such as "ready to ship" and RDC Shipment Prep Date/Time to the current date/time.. ...").*

15. With respect to Claim 14,

Ogilvie, and Bloom disclose all of the above limitations, Ogilvie further discloses,

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- *providing the customer with an authorization number that the customer can use to access the ATS to determine status of the product during transit from the vendor to the ADL.* (see at least column 3, lines 1-6: "...retailers can also offer the more efficient ePackage Depot (ePD) delivery option. The ePD delivery option can typically be priced lower than other delivery 25 options, since it requires the recipient to pickup their order from a customer distribution center (CDC) (or destination centralized pickup location) 1190-1. ePD delivery service may be provided by one or more package shippers or other organizations.. ...")

16. With respect to Claim 15,

Ogilvie, and Bloom disclose all of the above limitations, Bloom further discloses,

- *wherein the accessing is performed by ADL staff to determine the status of packages sent to, held by, and bound for the ADL.* (see at least paragraph 96: "...The RDC worker unloading the current retailer shipments can receive all the Retailer Shipment Reports from the tractor-trailer driver, for the retailer shipments on the trailer (202).... By scanning the Retailer Shipment Id's on the Retailer Shipment Reports after scanning their Employee Id and the Trailer Id, the worker can accept all the retailer shipments and associated cases arriving on that trailer (202) into the current origination RDC 1170, by initiating the Receive Retailer Shipment Program (316) to add a new record to a Retailer Shipment Receiving table 1214 for each Retailer Shipment Id scanned.")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom because it is an efficient way tracking shipments.

17. Claims 12, 16, and 17 are rejected under 35 USC 103(a) as being unpatentable over Ogilvie in view of Bloom, in further view of Fleckenstein et al., US Patent Application Publication No US 2004/0211834 A1.

18. With respect to Claim 12,

Ogilvie, and Bloom disclose all of the above limitations, the combination of Ogilvie, and Bloom does not distinctly disclose the following limitations, but Fleckenstein however as shown discloses,

- *wherein the vendor notifies the customer when the product is available for pick up at the ADL.* (see at least paragraph 43: "... an email is sent to the intended recipient, or their designee, when a delivery is attempted at a certain location. This email may include, for example, the notice code and a hyper-link to the delivery service's website so that the intended recipient may update their personal profile thereby instructing the delivery service to take certain actions regarding the parcels that were attempted to be delivered. ...")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom with the delivery system of Fleckenstein because it is an efficient means for notifying customers of product delivery from the vendor.

19. With respect to Claim 16,

Ogilvie, and Bloom disclose all of the above limitations, the combination of Ogilvie and Bloom does not distinctly disclose the following limitations, but Fleckenstein however as shown discloses,

- *wherein the ATS is used by ADL staff to log the date of arrival of the package at the ADL in memory and to track how long the package has been held by the ADL.*(see at least paragraph 95: "...Unless such information is already entered, the driver can also fill out preliminary information such as the date, delivery attempt no., COD status, any other needed information, and will then press "stop complete" on the data acquisition device. This completes the creation of a delivery stop record, which, under one embodiment of the present

invention, may include but is not limited to the following data fields: package delivery address, item code, delivery modification authorization code(s), time and date, consignee, COD information, etc....")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom with the delivery system of Fleckenstein because it is an efficient means for indicating that a delivery has been attempted or that the delivery has been modified.

20. With respect to Claim 17,

Ogilvie and Bloom disclose all of the above limitations, the combination of Ogilvie and Bloom does not distinctly disclose the following limitations, but Fleckenstein however as shown discloses,

- *wherein the ATS is accessed by the ADL staff using an ADL computer system to record the identity of a retriever of the product in memory.(see at least paragraph 130: "...The customer will provide a delivery notice, a delivery notice number and/or some form of valid identification in order to retrieve the parcel(s) from the service center..."*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom with the delivery system of Fleckenstein because it is an efficient means for ensuring packages are retrieved by authorized customers.

21. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogilvie, in view of Bloom, in further view of Ben-Shaul et al. US Patent No 6,976,900 B2.

22. With respect to Claim 19,

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Ogilvie and Bloom disclose all of the above limitations, the combination of Ogilvie and Bloom does not distinctly disclose the following limitations but Ben-Shaul however as shown discloses,

- *wherein the registering involves the customer downloading a web browser enhancement tool.*  
(see at least column 9, lines 12-17: "...Such services are enabled for a particular edge server by the downloading of CDML instruction and data structures from the origin site, the target site or a third party site, and by interpretation of CDML code and data structure within the content....")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom and the web-enabled computer system and method for facilitating and managing all aspects of a vendor project of Cullen with the differentiated content and application delivery system of Ben-Shaul because it provides an efficient means for allowing content providers to directly control the delivery of content based on regional and temporal preferences, client identity and content priority.

### **Response to Remarks**

23. Applicant's arguments with respect to independent claim 1 have been considered but are not persuasive. The new grounds of rejection are necessitated by Applicant's amendment to claims 1, 7, 9, and 17.
24. During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). In response, it is noted that upon further investigation while Ogilvie is directed to a secure regional and national/international package delivery apparatus and method for delivering goods to consignees when they are not physically present to receive them

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via a global communications network. Bloom discloses a bulk package delivery system to include but not limited to an ePD Delivery Process, specifically the ePD Billing & Maintenance application (via a linked internet web page) which can be a database and a set of programs to capture and maintain data related to customers, recipients, retailers, CDC's, RDC's, and shippers for use in the shipping operations of all ePD shippers. In view of the above, the examiner contends that all limitations as recited in the claims have been addressed in this Office Action. Fleckenstein discloses a notification and authorization process for retrieval of packages, while Ben-Shaul discloses downloading CDML instruction and data structures. For the above reasons, Examiner believes that the rejections of the current Office Action is proper.

### Conclusion

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37CFR 1.136(a).
26. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.
- 27.
28. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kimberly L.**

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**Evans** whose telephone number is **571.270.3929**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Jami Plucinski** can be reached at **571.272.6811**.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov> >. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free). Any response to this action should be mailed to: **Commissioner of Patents and Trademarks**, P.O. Box 1450, Alexandria, VA 22313-1450 or faxed to **571-273-8300**. Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**: Randolph Building 401 Dulany Street, Alexandria, VA 22314.

/KIMBERLY EVANS/

Examiner, Art Unit 3629

/Jonathan Ouellette/

Primary Examiner, Art Unit 3629